



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 239 and 258

[EPA-R01-RCRA-2012-0944; FRL -9771-7]

Adequacy of Massachusetts Municipal Solid Waste Landfill Permit Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves a modification to Massachusetts's approved municipal solid waste landfill (MSWLF) program. The approved modification allows the State to issue Research, Development, and Demonstration (RD&D) Permits to owners and operators of MSWLF in accordance with its State law. On March 22, 2004, EPA issued final regulations allowing research, development, and demonstration (RD&D) permits to be issued to certain municipal solid waste landfills by approved states. On December 7, 2012 Massachusetts submitted an application to EPA Region 1 seeking Federal approval of its RD&D requirements. After thorough review EPA Region 1 is determining that Massachusetts's RD&D permit requirements are adequate through this direct final action.

DATES: This determination of RD&D program adequacy for Massachusetts will become effective (**insert date 90 days after the date of publication in the FR**) without further notice

unless EPA receives adverse comments on or before (**insert date 60 days after the date of publication in the FR**). If adverse comments are received, EPA will review the comments and publish another **Federal Register** document responding to the comments and either affirming or revising the initial decision.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R01-RCRA-2012-0944, by one of the following methods:

- www.regulations.gov: Follow the on-line instructions for submitting comments.
- Email: hsieh.juiyu@epa.gov
- Fax: (617) 918-0646, to the attention of Juiyu Hsieh.
- Mail: Juiyu Hsieh, RCRA Waste Management and UST Section, Office of Site Remediation and Restoration (OSRR07-1), EPA New England – Region 1, 5 Post Office Square, Suite 100, Boston, MA 02109-3912.
- Hand Delivery or Courier: Deliver your comments to Juiyu Hsieh, RCRA Waste Management and UST Section, Office of Site Remediation and Restoration (OSRR07-1), EPA New England – Region 1, 5 Post Office Square, 7th floor, Boston, MA 02109-3912.
Such deliveries are only accepted during the Office's normal hours of operation.

Instructions: Identify your comments as relating to Docket ID No. EPA-R01-RCRA-2012-0944. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or claimed to be other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through

www.regulations.gov or e-mail. The www.regulations.gov website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA’s public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: EPA has established a docket for this action under Docket ID No. EPA-R01-RCRA-2012-0944. All documents in the docket are listed on the www.regulations.gov web site. Although it may be listed in the index, some information might not be publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the EPA Region 1 Library, 5 Post Office Square, 1st floor, Boston, MA 02109-3912; by appointment only; tel: (617) 918-1990.

FOR FURTHER INFORMATION CONTACT: Juiyu Hsieh, Remediation and Restoration II Branch (Mail Code OSRR07-1), U.S. EPA Region 1, 5 Post Office Square, Suite 100, Boston, MA 02109, telephone: (617) 918-1646, hsieh.juiyu@epa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

On March 22, 2004, EPA issued a final rule amending the municipal solid waste landfill criteria in 40 CFR part 258 to allow for research, development and demonstration (RD&D) permits (69 FR 13242). This rule allows for variances from specified criteria for a limited period of time, to be implemented through state-issued RD&D permits. RD&D permits are available only in states with approved MSWLF permit programs that have been modified to incorporate RD&D permit authority. While States are not required to seek approval to allow permits under this new provision, those States that are interested in providing RD&D permits to owners and operators of MSWLFs must seek approval from EPA before issuing such permits. Approval procedures for new provisions of 40 CFR Part 258 are outlined in 40 CFR 239.12.

Massachusetts's MSWLF permit program was approved on July 5, 1995 (60 FR 34982). On December 7, 2012, Massachusetts submitted an application to EPA Region 1 seeking Federal approval of its RD&D project program in conformance with Federal Requirements at 40 CFR 258.4. The Massachusetts RD&D program utilizes existing State regulations at 310 C.M.R. 19.080 and 310 C.M.R. 19.062, which allow the State to issue variances, and demonstration

project permits, respectively. The State has the authority under these regulations to ensure that all federal requirements are met, by limiting the variances issued to those that are federally allowed, and by attaching conditions and requirements to any variances and permits that are issued which ensure that all federal requirements will be met. The Massachusetts Department of Environmental Protection has entered into a Memorandum of Agreement with the EPA in which it has committed to always exercise its authority to ensure that all federal requirements are met.

B. Decision

After a thorough review, EPA is determining that the Massachusetts RD&D permit provisions are adequate to comply with the Federal criteria as set out in 40 CFR 258.4.

C. Statutory and Executive Order Reviews

This action approves State solid waste requirements pursuant to Resource Conservation and Recovery Act (RCRA) Section 4005 and imposes no Federal requirements. Therefore, this rule complies with applicable executive orders and statutory provisions as follows:

1. Executive Order 12866: Regulatory Planning Review—The Office of Management and Budget has exempted this action from its review under Executive Order 12866;
2. Paperwork Reduction Act: This action does not impose an information collection burden under the Paperwork Reduction Act;
3. Regulatory Flexibility Act: Since this action will not add any requirements not already imposed under State law, I certify that this action will not have a significant economic impact on a substantial number of small entities;
4. Unfunded Mandates Reform Act: Because this action approves pre-existing requirement

under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act;

5. Executive Order 13132: Federalism—Executive Order 13132 does not apply to this action because this action will not have federalism implications (i.e., there are no substantial direct effects on States, on the relationship between the national government and States, or on the distribution of power and responsibilities between Federal and State governments);

6. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments—Executive Order 13175 does not apply to this action because it will not have Tribal implications (i.e., there are no substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes);

7. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks—This action is not subject to Executive Order 13045 because it is not economically significant and it is not based on health or safety risks;

8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use: This action is not subject to Executive Order 13211 because it is not a significant regulatory action as defined in Executive Order 12866;

9. National Technology Transfer Advancement Act: This provision directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impracticable. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards and bodies. EPA approves State programs so long as the State programs adequately meet the criteria set out in 40 CFR part 258. It would be inconsistent with applicable law for EPA, in its review of a State program, to require the use of any particular voluntary consensus standard in place of another

standard that meets the 40 CFR part 258 criteria. Thus, the National Technology Transfer Advancement Act does not apply to this action;

10. Congressional Review Act: EPA will submit a report containing this action and other information required by the Congressional Review Act (5 U.S.C. 801 et seq.) to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**.

List of Subjects

40 CFR Part 239

Environmental protection, Administrative practice and procedure, Intergovernmental relations, Waste treatment and disposal.

40 CFR Part 258

Reporting and recordkeeping requirements, Waste treatment disposal, Water pollution control.

Authority: This action is issued under the authority of section 2002, 4005 and 4010(c) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6945 and 6949(a).

Dated: January 4, 2013.

Ira W. Leighton,

Acting Regional Administrator, EPA New England, Region 1.

[FR Doc. 2013-01435 Filed 01/24/2013 at 8:45 am; Publication Date: 01/25/2013]